

EXHIBIT E

Declaration of Matt Simon

Matt Simon makes the following declaration pursuant to 28 U.S.C. § 1746:

1. My name is Matthew “Matt” Waguespack Simon and I am fully competent to make this declaration. Unless otherwise indicated, the facts are within my personal knowledge.
2. I have been employed by Texas A&M University in A&M’s Athletics Department since 1998. My current title is Manager of Digital Strategy. In January 2014, part of my job was to act as website manager of the Athletics Department. I ultimately reported to Jason Cook, Senior Associate Athletics Director.
3. On Sunday afternoon, January 19, 2014, Matt Callaway emailed me a copy of a story about the 12th Man that I was to post on the Athletics Department website. The Word document that he sent was titled: “E. King Gill: The Life and Legend of Texas A&M’s 12th Man.” In his cover email to me, Mr. Callaway said “Written by Whit Canning in 1998.” Exhibit 1 to this Declaration is a true and correct copy of my correspondence with Matt Callaway.
4. Shortly after receiving the article from Mr. Callaway, I sent him an email that said: “Find me a high res e king gill statute pic please I don’t have time.” Mr.Callaway did so.
5. Before posting the Article, I changed the title and subhead to this:

THE ORIGINAL 12TH MAN

*in this retrospective, originally written in 1998, we bring you the story of
E. King Gill - the life and legend of Texas A&M’s 12th Man*

by Whit Canning

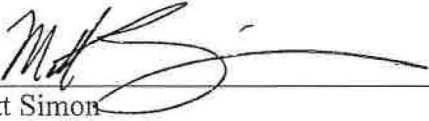
Special to Texas A&M Athletics

I most likely changed the title so that it would fit the display on the website. I would have added the subhead to draw people in by explaining more about the story. I added the phrase, “Special to Texas A&M Athletics” to indicate that the article came from outside the Athletics Department. No one told me to make these changes. I did not intend for these changes to have any effect on the copyright protections that may have applied to that article.

6. At no time did Brad Marquardt encourage or direct me to post the article on the Department website. I do not recall that I had any communications at all with Mr. Marquardt about this article at the time.
7. No one said anything to me about whether we needed to get permission to post the story on the Athletics Department’s website.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed September 6, 2023.



Matt Simon

EXHIBIT E-1

From: Matthew Callaway <Athleticsmail/First Administrative Group/Recipients/mcallaway>
Sent: 1/19/2014 9:10:51 PM +0000
To: Matt Simon <matts@athletics.tamu.edu>
Subject: RE: 12thMan Article
Attachments: Statue.jpg

Matt Callaway

Assistant Media Relations Director

Texas A&M University

979.862.5443 (o)

713.305.0815 (c)

979.845.6825 (f)

mcallaway@athletics.tamu.edu

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From: Matt Simon
Sent: Sunday, January 19, 2014 3:09 PM
To: Matthew Callaway
Subject: RE: 12thMan Article

Find me a high res e king gill statue pic please I don't have time

From: Matthew Callaway
Sent: Sunday, January 19, 2014 2:44 PM
To: Matt Simon
Subject: 12thMan Article

Written by Whit Canning in 1998

Matt Callaway

Assistant Media Relations Director

Texas A&M University

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From: Matt Simon <matts@athletics.tamu.edu>
Sent: 1/19/2014 9:13:42 PM +0000
To: Matthew Callaway <mcallaway@athletics.tamu.edu>
Subject: RE: 12thMan Article

Thx. Will go live at 3:45.

http://www.aggieathletics.com/ViewArticle.dbml?DB_OEM_ID=27300&ATCLID=209380492

check for errors if you want may or may not have time to fix.

From: Matthew Callaway
Sent: Sunday, January 19, 2014 3:11 PM
To: Matt Simon
Subject: RE: 12thMan Article

Matt Callaway

Assistant Media Relations Director

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